

No. 08-5645

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Jul 08, 2009
LEONARD GREEN, Clerk

In Re: HERBERT S. MONCIER,

Appellant.

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)
) ON APPEAL FROM THE UNITED
) STATES DISTRICT COURT FOR
) THE EASTERN DISTRICT OF
) TENNESSEE
)
)
)

Before: DAUGHTREY, ROGERS, and KETHLEDGE, Circuit Judges.

PER CURIAM. Attorney Herbert Moncier appeals his seven-year suspension from the bar of the Eastern District of Tennessee for conduct described, in some detail, in another opinion released today. *See United States v. Moncier*, No. 07-6053 (6th Cir. July 8, 2009). We have considered Mr. Moncier's arguments in favor of reversal, and reviewed the substantial record in this case. And having done so, we have little to add to the District Court's exhaustive, painstaking, and well-reasoned opinion in this case. Mr. Moncier's conduct, in short, was precisely as Chief Judge Collier described it to be.

We write further to address only one of Moncier's arguments on appeal: Namely, that in disciplining Mr. Moncier, Chief Judge Collier improperly relied upon Judge Greer's factual and legal findings in Mr. Moncier's criminal-contempt case. It is true that, in the course of his 80-page

opinion suspending Mr. Moncier from practice, Chief Judge Collier cited Judge Greer's factual findings in the contempt case. But any error with respect to those citations was harmless. Mr. Moncier admitted to the conduct that was the basis of his suspension. He admitted, for example, that he interrupted Judge Greer, that he threatened to abandon his client—a criminal defendant—and that he disobeyed a direct order of the court. *See April 29, 2008 Memorandum & Order* at 58, 59-60, 63. Chief Judge Collier also noted that his findings were based on his own review of the transcript of the hearing in which the misconduct occurred. *See id.* at 55, 58, 59-60, 63. Moreover, Chief Judge Collier specifically did *not* rely on Judge's Greer's legal finding of contempt. *See id.* at 24. Hence this argument, like Mr. Moncier's other ones, does not entitle him to relief.

The District Court's April 29, 2008 Memorandum and Order is affirmed.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Leonard Green
Clerk

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Re: Case No. 08-5645, *In Re: Herbert Moncier*
Originating Case No. : 08-00009

Dear Mr. Harwell:

The Court issued the enclosed (Order/Opinion) today in this case.

Sincerely yours,

s/Patricia J. Elder
Senior Case Manager
Direct Dial No. 513-564-7034
Fax No. 513-564-7096

cc: Ms. Patricia L. McNutt

Enclosure

Mandate to issue